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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,852	12/21/2001	Malcolm David Clark	1182-42(a) CIP	1831

7590 04/30/2003

GALGANO & BURKE  
300 Rabro Drive, Suite 135  
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EXAMINER

KONTOS, LINA R

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 04/30/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/026,852

Applicant(s)

CLARK ET AL.

Examiner

Lina Kontos

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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**Priority**

**1.**

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the United Kingdom on 6/23/1999. It is noted, however, that applicant has not filed a certified copy of the UK 9914621.9 application as required by 35 U.S.C. 119(b).

**Specification**

**2.**

The disclosure is objected to because of the following informalities: reference numerals 4 and 5 have been used interchangeably to refer to the pre-breakage line and the tip. For the purposes of this examination, 4 has been interpreted to refer to the tip, and 5 to the pre-breakage line.

Appropriate correction is required.

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**3.**

Claim 10 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Farris et al

Farris et al. teaches a pre-filled syringe comprising a collapsible reservoir (column 6, line 30) leading to a tubular section (column 7, line 24) and then to another reservoir (column 6, line 33) of different volumetric capacity (Figure 4). A cap (comprising the second reservoir) is

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severed from the device via a score-line to allow for the dispensing of the medicament (column 6, lines 35-37). The fluid is dispensed when the user squeezes the reservoir (column 7, lines 12-18). The syringe is formed in one piece (column 3, line 46) from optically transparent plastic (column 8, lines 26-27)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farris et al. in view of Stein.

Farris et al., as described above, teaches a pre-filled syringe with two user-collapsible reservoirs and a frangible end cap, but fails to disclose the device to be spoon-shaped in profile.

Stein shows a storing and dispensing spoon with a main reservoir and an outlet wherein the reservoir portion has one flat face and a domed portion (Figure 4).

It would have been obvious to one skilled in the art at the time of the invention to manufacture the reservoir to have a hemispherical shape with a handle extending therefrom to enable to the user to more comfortably hold the device.

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**Conclusion**

5.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 4,318,403 teaches a syringe with a flexible fluid container having a tubular extension with a frangible cap. The syringe is formed in one piece and pre-filled.

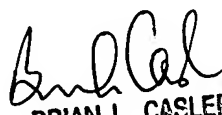
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lina Kontos whose telephone number is (703) 306-4207. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (703) 308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

LRK  
April 25, 2003

  
BRIAN L. CASLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER ST09